

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

G.T. by his Parents Michelle and Jamie T.,  
K.M. by his Parents Danielle and Steven M.,  
*on behalf of themselves and all similarly  
situated individuals*, and THE ARC OF  
WEST VIRGINIA,

Civil Action No. 2:20-cv-00057

Judge Irene C. Berger

Plaintiffs,

v.

THE BOARD OF EDUCATION OF THE  
COUNTY OF KANAWHA,

Defendant.

**PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

NOW COME Plaintiffs G.T., by his Parents Michelle and Jamie T., K.M., by his parents Danielle and Steven M., on behalf of themselves and all similarly situated individuals, and The ARC of West Virginia, by counsel, and pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), to move this Honorable Court to certify this proceeding as a class action. Based upon this motion, the complaint, and the authorities and principles discussed in Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Class Certification, Plaintiffs ask this Court to certify a Plaintiff class for declaratory and injunctive relief, defined as follows:

All Kanawha County Schools students with disabilities who need behavior supports  
and have experienced disciplinary removals from any classroom.

As set forth in the attached exhibits and accompanying Memorandum of Law in Support of Plaintiffs' Motion for Class Certification, the named Plaintiffs meet the requirements for certification of a class under Federal Rule of Civil Procedure 23(a), including numerosity, common questions of law and fact, common claims, typicality, and that "the representative parties will fairly and adequately protect the interests of the class." Moreover, this class is appropriate for certification under Federal Rule of Civil Procedure 23(b)(2), as the defendant "has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). (*See* Exhibits 1 through 38, attached hereto.)

Undersigned counsel also request to be appointed as counsel for the class pursuant to Federal Rule of Civil Procedure 23(g), based upon the facts set forth in Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Class Certification, and in class counsels' individual supporting declarations. (*See* Decl. of Lydia C. Milnes, attached as Ex. 33; Decl. of Lori Waller, attached as Ex. 34; Decl. of Ira A. Burnim, attached as Ex. 35; Declaration of Shira Wakschlag, attached as Ex. 36; Decl. of Robin Hulshizer, attached as Ex. 37.)

**WHEREFORE**, Plaintiffs, who bring this action to address widespread, systemic failures by Defendants to provide adequate behavior supports to children with disabilities to ensure education in the least restrictive environment, respectfully request that this Court certify the class and subclass as stated above.

**Respectfully Submitted,**

**Plaintiffs G.T. and K.M., on behalf of themselves  
and all other similarly situated individuals, and  
The Arc Of West Virginia,**

**By Counsel.**

*/s/ Lydia C. Milnes*

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